

WSR 04-09-056

PROPOSED RULES

STATE BOARD OF HEALTH

[Filed April 16, 2004, 11:33 a.m.]

Original Notice.

Exempt from preproposal statement of inquiry under [RCW 34.05.310](#)(4).

Title of Rule: [WAC 246-217-010](#) Food worker cards -- Definitions.

Purpose: To amend the definition of food service establishment, [WAC 246-217-010](#)(4).

Other Identifying Information: This section was recently the subject of a notice of inquiry (CR-101) published as WSR 02-20-075. However, the CR-101 was subsequently withdrawn by a notice published as WSR 04-06-020. This proposal is the result of continued work on this subject with interested parties.

Statutory Authority for Adoption: [RCW 69.06.010](#).

Statute Being Implemented: [RCW 69.06.010](#).

Summary: The proposal will amend the definition of "food service establishment." Currently adult family homes are defined as food service establishments within the category of institutional operations. The proposal will move adult family homes out of the list of institutional operations to become an individual category of food service establishment.

Reasons Supporting Proposal: The proposal will clarify that adult family homes are not institutions.

Name of Agency Personnel Responsible for Drafting: Ned Therien, 7171 Cleanwater Lane, Building 4, Tumwater, WA 98501, (360) 236-3071;
Implementation and Enforcement: Dave Gifford, 7171 Cleanwater Lane, Building 4, Tumwater, WA 98501, (360) 236-3074.

Name of Proponent: Department of Health.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: [WAC 246-217-010](#) defines food service establishments for the purpose of determining who must obtain a food worker card. Representatives of adult family homes have expressed concern about being listed as "institutional operations" within the definition of food service establishments. This proposal will remove adult family homes from the list of institutional operations but keeps adult family homes within the definition of food service establishment.

Proposal does not change existing rules. The proposal amends [WAC 246-217-010](#)(4).

No small business economic impact statement has been prepared under [chapter 19.85 RCW](#). Under [RCW 19.85.025](#)(3), rules that clarify the language of a rule without changing the effect are exempt from the requirements of the Regulatory Fairness Act.

[RCW 34.05.328](#) does not apply to this rule adoption. This proposal clarifies the definition of food service establishment without changing its effect. [RCW 34.05.328](#) does not apply to rules that clarify language of a rule without changing the effect.

Hearing Location: State Board of Health, Lewis County, to be announced, on July 14, 2004, at 2 p.m.

Assistance for Persons with Disabilities: Contact Ned Therien by July 7, 2004, (360) 236-2257.

Submit Written Comments to: Ned Therien, P.O. Box 47824, Olympia, WA 98504-7824, fax (360) 236-2257, by July 7, 2004.

Date of Intended Adoption: July 14, 2004.

April 13, 2004

Craig McLaughlin

Acting Executive Director

OTS-7004.1

AMENDATORY SECTION(Amending [WSR 99-13-019](#), filed 6/7/99, effective 7/8/99)

WAC 246-217-010 Definitions. As used in this chapter of the rules and regulations, the following definitions apply:

(1) "Additional food safety training" means completion of a comprehensive training program on food safety of at least four hours in length. Training may include topics such as: Proper cooking, hot-holding, cold-holding and cooling of potentially hazardous foods; cross-contamination prevention; HACCP and/or proper hand washing techniques. Approval of training programs shall be obtained from jurisdictional health departments or the department by the training provider. Approval of training programs must be obtained in advance.

(2) "Applicant" means an individual applying to obtain an initial or renewal food worker card.

(3) "Department" means the Washington state department of health.

(4) "Food service establishment" means:

(a) A place, location, operation, site, or facility where food is manufactured, prepared, processed, packaged, dispensed, distributed, sold, served, or offered to the consumer regardless of whether or not compensation for food occurs, including but not limited to:

(i) Restaurants, snack bars, cafeterias, taverns, bars;

(ii) Retail food stores, supermarkets, retail meat markets, retail fish markets, retail bakeries, delicatessens;

(iii) Institutional operations licensed by the department, the state department of social and health services or local health officer, such as schools, hospitals, jails, prisons, nursing homes, boarding homes, ~~((adult family homes))~~ and child care facilities;

(iv) Central preparation sites, including caterers;

(v) Satellite servicing locations;

(vi) Temporary food service establishments or mobile food units;

(vii) Bed and breakfast operations;

(viii) Remote feeding sites; ~~((and))~~

(ix) Adult family homes; and

(x) Vending machines dispensing potentially hazardous foods.

(b) This term does not include:

- (i) Private homes where food is prepared or served for consumption by household members and/or their guests;
 - (ii) Establishments offering only commercially prepackaged nonpotentially hazardous foods;
 - (iii) Commercial food processing establishments, licensed and regulated by the USDA, FDA, or WSDA; and
 - (iv) Farmers exempt from licensure under [RCW 36.71.090](#).
- (5) "Food service worker" means an individual who works (or intends to work) with or without pay in a food service establishment and handles unwrapped or unpackaged food or who may contribute to the transmission of infectious diseases through the nature of his/her contact with food products and/or equipment and facilities. This does not include persons who simply assist residents or patients in institutional facilities with meals, or students in K-12 schools who periodically assist with school meal service.
- (6) "Food worker card" means a food and beverage service workers' permit as required under [chapter 69.06 RCW](#).
- (7) "Health officer" means the county, city-county, or district health officer of a jurisdictional health department, or his/her authorized representative, or the representative of the department.
- (8) "Jurisdictional health department" refers to one of the following:
- (a) Local health district as defined in [chapter 70.46 RCW](#).
 - (b) City-county health department as defined in [chapter 70.08 RCW](#).
 - (c) County health department as defined in [chapter 70.05 RCW](#).

(9) "Person" means any individual, partnership, corporation, association, or other legal entity or agency of state, county, or municipal government, or agency of the federal government which is subject to the jurisdiction of the state.

(10) "Secretary" means the secretary of the state department of health.

[Statutory Authority: [RCW 43.20.050](#). [99-13-019](#), § 246-217-010, filed 6/7/99, effective 7/8/99; 91-02-051 (Order 124B), recodified as § 246-217-010, filed 12/27/90, effective 1/31/91; Regulation [87.002](#), effective 3/11/60.]

[Legislature](#)

[Code Reviser](#)

[Register](#)

© Washington State Code Reviser's Office